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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,681	09/18/2003	Leonard Robert Speiser	2043.093US1	8255
21186	7590	11/16/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH			O'CONNOR, GERALD J	
1600 TCF TOWER			ART UNIT	PAPER NUMBER
121 SOUTH EIGHT STREET				
MINNEAPOLIS, MN 55402			3627	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/666,681	Speiser et al.	
	<b>Examiner</b>	<b>Art Unit</b>	
	O'Connor	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on July 25, 2005.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 and 23-34 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 15-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on September 18, 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20040322, 20040325, 20050511, and 20050725</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election of Invention II (claims 15-22) in the reply filed July 25, 2005 is hereby acknowledged. Because applicant did not distinctly and specifically point out any supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
  
2. Claims 1-14 and 23-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed July 25, 2005.

### ***Claim Objections***

3. Claims 15-22 are objected to because of the following informalities:
  - In claim 15 (line 6) it appears that: "the division" was intended to be --the identified division--;
  - In claim 15 (line 7) it appears that: "the frequently used search term" was intended to be --each frequently used search term--;
  - In claim 16 (line 1) it appears that: "which includes" was intended to be --including--;
  - In claim 16 (line 1) it appears that: "the frequently used search term" was intended to be --each frequently used search term--;

- In claim 17 (line 1) it appears that: “in which” was intended to be --wherein--;
- In claim 17 (lines 1-2) it appears that: “the frequently used search term” was intended to be --each frequently used search term--;
- In claim 17 (line 3) it appears that: “the frequently used search terms” was intended to be --each frequently used search term--;
- In claim 18 (lines 1-2) it appears that: “the predetermined number of frequently used search terms are” was intended to be --the at least one frequently used search term is--;
- In claim 19 (line 1) it appears that: “which includes” was intended to be --including--;
- In claim 20 (line 1) it appears that: “which includes” was intended to be --including--; and,
- In claim 21 (line 1) it appears that: “the frequently used search terms are” was intended to be --the at least one frequently used search term is--,

all of which changes will be assumed for purposes of further consideration of the claims,  
hereinbelow.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in-
  - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
  - (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 15-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Spiegel et al. (US 6,466,918).

Spiegel et al. disclose a method of providing listing recommendations to users of a network-based commerce system including a plurality of listings arranged in a plurality of divisions, the method including: identifying a division of the plurality of divisions based on user interaction with the network-based commerce system; identifying at least one frequently used search term associated with the identified division; and providing a link to the user to listings associated with each frequently used search term.

Regarding claim 16, the method of Spiegel et al. includes communicating a web page to the user including a hyperlink to the listings associated with each frequently used search term.

Regarding claim 17, in the method of Spiegel et al. the listings associated with each frequently used search term are listings that would be located if the user conducted a search of the network-based commerce system using each frequently used search term.

Regarding claim 18, in the method of Spiegel et al. the at least one frequently used search term is ranked in one of an ascending and descending order according to a number of occurrences of listings in a division associated with the search term.

Regarding claim 19, the method of Spiegel et al. inherently includes periodically adding new listings and removing terminated listings prior to determining the number of listings in each division associated with each frequently used search term so that the ranking is dependent upon supply and demand for the listings.

Regarding claim 20, the method of Spiegel et al. includes searching the network-based commerce system using at least one frequently used search term when the user selects the link.

Regarding claim 21, in the method of Spiegel et al. the at least one frequently used search term is displayed according to rank in one of an ascending and descending order.

Regarding claim 22, in the method of Spiegel et al. frequently used search terms are assigned to each of the plurality of divisions, the divisions being defined by categories.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to the disclosure.

7. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Alexander Kalinowski, can be reached at **(571) 272-6771**.

Official replies to this Office action may be submitted by any **one** of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

October 28, 2005



Gerald J. O'Connor

Primary Examiner

Group Art Unit 3627